UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

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Counsel to the Plan Administrator

In re:

BED BATH & BEYOND INC., et al., 1

Debtors.

Chapter 11

Case No. 23-13359 (VFP)

(Jointly Administered)

PLAN ADMINISTRATOR'S REPLY TO INFORMAL OPPOSITION OF DEBRA BOGARD TO FOURTH OMNIBUS OBJECTION (SUBSTANTIVE) TO CLAIMS (Reclassified Gift Card/Merchandise Credit Claims No. 2)

Michael Goldberg, solely in his capacity as the Plan Administrator (the "Plan Administrator") to 20230930-DK-Butterfly-1, Inc. (f/k/a/ Bed Bath & Beyond Inc.)² and

¹ The last four digits of Debtor Bed Bath & Beyond Inc.'s tax identification number are 0488. A complete list of the Debtors in these chapter 11 cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/bbby.

² Pursuant to the *Certificate of Amendment of the Certificate of Incorporation of Bed Bath & Beyond Inc.*, which was filed with the State of New York Department of State on September 21, 2023, the name of the entity formerly known as "Bed Bath & Beyond Inc." was changed to 20230930-DK-Butterfly, Inc. [Filing ID No. 230921001833 DOS ID 315602].

affiliated debtors (the "<u>Debtors</u>"), files this reply to the informal opposition of Debra Bogard to his *Fourth Omnibus Objection (Substantive) to Certain Claims (Reclassified Gift Card/Merchandise Credit Claims No. 2)* (the "<u>Reply</u>"). In support of the Reply, the Plan Administrator respectfully states as follows:

- 1. On October 8, 2024, the Plan Administrator filed the *Fourth Omnibus Objection (Substantive) to Certain Claims (Reclassified Gift Card/Merchandise Credit Claims No. 2)* (the "Objection") [Doc. No. 3552].³ Pursuant to the Objection, the Plan Administrator objected to 100 proofs of claim that assert claims related to a gift card and/or a merchandise credit that the Claimants contend are entitled to treatment as either: (i) a priority unsecured claim pursuant to Bankruptcy Code section 507(a); (ii) an administrative claim pursuant to Bankruptcy Code section 503(b), or (iii) a secured claim. The Plan Administrator does not seek to disallow any of the Disputed Claims at this time, but seeks simply to reclassify them as Class 6 General Unsecured Claims.
- 2. On October 8, 2024, the Objection and the Notice of Objection [Doc. No. 3553] were served via first class mail on, *inter alia*, the Claimants holding the Disputed Claims. [Doc. No. 3586].
 - 3. The deadline to respond to the Objection was November 6, 2024.
- 4. On October 31, 2024, counsel to the Plan Administrator received an email from Debra Bogard ("Claimant") in which she states, "I am objecting to being reclassified as

³ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Objection.

general and felt BBB was negligent in the manner in which they did not adequately address their gift card customers." *See* October 31 email attached as **Exhibit A**.

- 5. On November 1, 2024, chambers advised Claimant to mail a letter to the Court if she wished to respond to the Objection. *See* November 1 email attached as **Exhibit B**.
- 6. As of the filing of this Reply, no responses to the Objection have been filed on the docket and the Plan Administrator is unaware of any mailing or filing made by Claimant in response to the November 1, 2024 email. In an abundance of caution, however, the Plan Administrator briefly addresses the substance of Claimant's October 31 email.
- 7. On February 6, 2024, Claimant filed a proof of claim for \$50.00 the basis of which is "unable to use gift card". *See* Claim 19411 attached as **Exhibit C**. In addition to being untimely filed, Claimant asserts priority pursuant to 11 U.S.C. § 503(b)(9), for which, as the Objection makes clear, her claim does not qualify.
- 8. Bankruptcy Code section 503(b)(9) provides, "After notice and a hearing, there shall be allowed, administrative expenses including---the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business." 11 U.S.C. § 503(b)(9). As was set forth in the Objection:

To prevail on a 503(b)(9) claim, Claimants must establish: (1) that they sold goods to the Debtors; (2) the goods were received by the Debtors within twenty days prior to filing; and (3) the goods were sold to the Debtors in the ordinary course of business. *In re Goody's Family Clothing, Inc.*, 401 B.R. 131, 133 (Bankr. D. Del. 2009) (emphasis added). None of the Disputed Claims makes such a showing. Accordingly, each Disputed Claim that alleges priority pursuant to section 503(b)(9) should be reclassified as a general unsecured claim.

Objection at 14, n.16. Claimant has failed to establish that Claimant sold goods to the Debtors (which goods were received by the Debtors) in the ordinary course of business within 20 days of the bankruptcy filing. Accordingly, Claim 19411 is not entitled to priority pursuant to section 503(b)(9) and should be reclassified as a General Unsecured Claim.

Dated: November 8, 2024 /s/ Colin R. Robinson

Robert J. Feinstein, Esq. (admitted *pro hac vice*)

Bradford J. Sandler, Esq. Paul J. Labov, Esq. Colin R. Robinson, Esq.

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Counsel to the Plan Administrator

EXHIBIT A

From:

Date: Thursday, October 31, 2024 at 1:05 PM

To: Robert Feinstein < rfeinstein@pszjlaw.com >, chambers of vfp@njb.uscourts.gov

<chambers of vfp@njb.uscourts.gov>

Cc: Bradford J. Sandler < bsandler@pszjlaw.com > **Subject:** Response to bed,bath,beyond objection

Dear Sirs,

I am attempting to respond to above matter. I received the letter filed October 8,2024 in the mail on October 28,2024 in which the response is due by Nov 6, 2024. Hardly leaving me to answer in a timely response via snail mail.

I read the letter no less than 5 times and do not know what kind of a response you are seeking. I am objecting to being reclassified as general and felt BBB was negligent in the manner in which they did not adequately address their gift card customers.

Please follow up with a response in which I can act accordingly to the objection notice.

Respectfully, Debra Bogard Case 23-13359-VFP Doc 3687 Filed 11/08/24 Entered 11/08/24 21:07:57 Desc Main Document Page 7 of 16

EXHIBIT B

From: Chambers of VFP

Date: Friday, November 1, 2024 at 9:35 AM

To: Robert Feinstein < rfeinstein@pszjlaw.com >

Cc: Bradford J. Sandler < bsandler@pszjlaw.com > **Subject:** RE: Response to bed,bath,beyond objection

Ms. Debra Bogard,

If you wish to respond/object to the Plan Administrator's Fourth Omnibus Objection to claims, filed on October 8, 2024, you may <u>mail</u> a letter to this court at the address listed below my signature and also send a copy to the Plan Administrator's Law Firm – Bradford Sandler via email and or mail.

Please note- any document you wish to file with this Court should be either mailed or hand delivered, submission via Email will not be considered for filing on the Court docket.

Sincerely,

Juan Filgueiras

Courtroom Deputy to Judge Vincent F. Papalia U.S. Bankruptcy Court 50 Walnut Street Newark, NJ 07102 973-645-3262

From:

Sent: Thursday, October 31, 2024 1:03 PM

To: rfeinstein_pszjlaw.com < rfeinstein@pszjlaw.com >; Chambers_of VFP

Cc: bsandler_pszjlaw.com < bsandler@pszjlaw.com > Subject: Response to bed,bath,beyond objection

CAUTION - EXTERNAL:

Dear Sirs,

I am attempting to respond to above matter. I received the letter filed October 8,2024 in the mail on October 28,2024 in which the response is due by Nov 6, 2024. Hardly leaving me to answer in a timely response via snail mail.

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I read the letter no less than 5 times and do not know what kind of a response you are seeking. I am objecting to being reclassified as general and felt BBB was negligent in the manner in which they did not adequately address their gift card customers.

Please follow up with a response in which I can act accordingly to the objection notice.

Respectfully, Debra Bogard

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

EXHIBIT C

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United States Bankruptcy Court, District of New Jersey (Newark)

Fill in this information to identif	fy the case (Select only one Debtor per	claim form):	
■ Bed Bath & Beyond Inc.	☐ Alamo Bed Bath & Beyond Inc.	■ BBB Canada LP Inc.	■ BBB Value Services Inc.
(Case No. 23-13359)	(Case No. 23-13360)	(Case No. 23-13361)	(Case No. 23-13362)
BBBY Management Corporation	■ BBBYCF LLC	■ BBBYTF LLC	bed 'n bath Stores Inc.
(Case No. 23-13363)	(Case No. 23-13364)	(Case No. 23-13365)	(Case No. 23-13396)
☐ Bed Bath & Beyond of Annapolis, Inc.	■ Bed Bath & Beyond of Arundel Inc.	■ Bed Bath & Beyond of Baton Rouge Inc.	■ Bed Bath & Beyond of Birmingham
(Case No. 23-13366)	(Case No. 23-13367)	(Case No. 23-13368)	Inc.
No. 1	0 10	53 052	(Case No. 23-13369)
■ Bed Bath & Beyond of Bridgewater	■ Bed Bath & Beyond of California	■ Bed Bath & Beyond of Davenport Inc.	■ Bed Bath & Beyond of East Hanove
Inc.	Limited Liability Company	(Case No. 23-13372)	Inc.
(Case No. 23-13370)	(Case No. 23-13371)		(Case No. 23-13373)
■Bed Bath & Beyond of Edgewater Inc.	■ Bed Bath & Beyond of Falls Church, Inc.	■Bed Bath & Beyond of Fashion Center,	■ Bed Bath & Beyond of Frederick,
(Case No. 23-13374)	(Case No. 23-13375)	Inc.	Inc.
		(Case No. 23-13376)	(Case No. 23-13377)
■Bed Bath & Beyond of Gaithersburg	■ Bed Bath & Beyond of Gallery Place	■Bed Bath & Beyond of Knoxville Inc.	☐ Bed Bath & Beyond of Lexington
Inc.	L.L.C.	(Case No. 23-13380)	Inc.
(Case No. 23-13378)	(Case No. 23-13379)		(Case No. 23-13381)
■Bed Bath & Beyond of Lincoln Park	☐ Bed Bath & Beyond of Louisville Inc.	■Bed Bath & Beyond of Mandeville Inc.	■Bed, Bath & Beyond of Manhattan, In
Inc.	(Case No. 23-13383)	(Case No. 23-13384)	(Case No. 23-13397)
(Case No. 23-13382)	<u> </u>	<u> </u>	102.12
Bed Bath & Beyond of Opry Inc.	■ Bed Bath & Beyond of Overland Park	■Bed Bath & Beyond of Palm Desert Inc.	■Bed Bath & Beyond of Paradise
(Case No. 23-13385)	Inc.	(Case No. 23-13387)	Valley Inc.
	(Case No. 23-13386)		(Case No. 23-13388)
■ Bed Bath & Beyond of Pittsford Inc.	■ Bed Bath & Beyond of Portland Inc.	■Bed Bath & Beyond of Rockford Inc.	■Bed Bath & Beyond of Towson Inc.
(Case No. 23-13389)	(Case No. 23-13390)	(Case No. 23-13391)	(Case No. 23-13392)
☐ Bed Bath & Beyond of Virginia Beach	☐ Bed Bath & Beyond of Waldorf Inc.	☐ Bed Bath & Beyond of Woodbridge Inc.	■ Buy Buy Baby of Rockville, Inc.
Inc.	(Case No. 23-13394)	(Case No. 23-13395)	(Case No. 23-13398)
(Case No. 23-13393)	STREET BUT HOLDERS CONTINUES HAVE BUT TO CONTINUE BY	BAT SUBSTITUTE AND PROPERTY OF STATE OF	PRODUCING CONTROL STORES CONTROL STO
Buy Buy Baby of Totowa, Inc.	Buy Buy Baby, Inc.	■BWAO LLC	☐ Chef C Holdings LLC
(Case No. 23-13399)	(Case No. 23-13400)	(Case No. 23-13401)	(Case No. 23-13402)
Decorist, LLC	Deerbrook Bed Bath & Beyond Inc.	☐ Harmon of Brentwood, Inc.	☐ Harmon of Caldwell, Inc.
(Case No. 23-13403)	(Case No. 23-13404)	(Case No. 23-13405)	(Case No. 23-13406)
☐Harmon of Carlstadt, Inc.	☐ Harmon of Franklin, Inc.	☐Harmon of Greenbrook II, Inc.	☐ Harmon of Hackensack, Inc.
(Case No. 23-13407)	(Case No. 23-13408)	(Case No. 23-13409)	(Case No. 23-13410)
Harmon of Hanover, Inc.	☐ Harmon of Hartsdale, Inc.	■Harmon of Manalapan, Inc.	Harmon of Massapequa, Inc.
(Case No. 23-13411)	(Case No. 23-13412)	(Case No. 23-13413)	(Case No. 23-13414)
Chippers Committee Committ	The state of the s	A A A A A A A A A A A A A A A A A A A	A CHARGE COME EN CASCAL PRODUCTION COME.
Harmon of Melville, Inc.	Harmon of New Rochelle, Inc.	Harmon of Newton, Inc.	Harmon of Old Bridge, Inc.
(Case No. 23-13415)	(Case No. 23-13416)	(Case No. 23-13417)	(Case No. 23-13418)
Harmon of Plainview, Inc.	Harmon of Raritan, Inc.	Harmon of Rockaway, Inc.	Harmon of Shrewsbury, Inc.
(Case No. 23-13419)	(Case No. 23-13420)	(Case No. 23-13421)	(Case No. 23-13422)
■ Harmon of Totowa, Inc.	☐ Harmon of Wayne, Inc.	☐Harmon of Westfield, Inc.	☐ Harmon of Yonkers, Inc.
(Case No. 23-13423)	(Case No. 23-13424)	(Case No. 23-13425)	(Case No. 23-13426)
Harmon Stores, Inc.	Liberty Procurement Co. Inc.	Of a Kind, Inc.	One Kings Lane LLC
(Case No. 23-13427)	(Case No. 23-13428)	(Case No. 23-13429)	(Case No. 23-13430)
☐ San Antonio Bed Bath & Beyond	☐ Springfield Buy Buy Baby, Inc.	1 15	
Lisan Antonio bed bath & beyond	pringileid buy buy baby, inc.	I	

Proof of Claim 04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the C	laim	
Who is the current creditor?	Debra Bogard Name of the current creditor (the person or entity to be paid for this Other names the creditor used with the debtor	s claim)
Has this claim been acquired from someone else?	✓ No Yes. From whom?	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
4. Does this claim amend	Contact phone Contact email	Contact phone Contact email
one already filed?	Yes. Claim number on court claims registry (if known) Filed on
5. Do you know if anyone else has filed a proof of claim for this claim?	No Yes. Who made the earlier filing?	
Part 2: Give Informa	ation About the Claim as of the Date the Case Wa	as Filed
6. Do you have any number you use to identify the debtor?		ber you use to identify the debtor: 6 4 2 8
7. How much is the claim?	✓ No Yes. Attacl	ount include interest or other charges? h statement itemizing interest, fees, expenses, or other ges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services p Attach redacted copies of any documents supporting the Limit disclosing information that is entitled to privacy, suc unable to use gift card	B 150 150 150 150
A	Proof of Claim	page 1

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9. Is all or part of the claim secured?	✓ No Yes. The claim is secured by a lien on property.	
	Nature of property:	
	Real estate. If the claim is secured by the debtor's principal residence, file a Mort	gage Proof of Claim
	Attachment (Official Form 410-A) with this Proof of Claim. Motor vehicle	
	Other. Describe:	
	GL SYSSON STRONGSVINION COM	
	Basis for perfection:	
	Attach redacted copies of documents, if any, that show evidence of perfection of a se example, a mortgage, lien, certificate of title, financing statement, or other document been filed or recorded.)	
	Value of property: \$	
	Amount of the claim that is secured: \$	
	Amount of the claim that is unsecured: \$(The sum of the samounts should in the samount should in the samount should in the samount should in the samount should be same should should	ecured and unsecured match the amount in line 7.)
	Amount necessary to cure any default as of the date of the petition: \$	
	Annual Interest Rate (when case was filed)% Fixed Variable	
10. Is this claim based on a lease?	No Yes. Amount necessary to cure any default as of the date of thepetition.	
11. Is this claim subject to a right of setoff?	Ves. Identify the property:	
12. Is all or part of the claim	No	
entitled to priority under 11 U.S.C. § 507(a)?	Yes. Check one:	Amount entitled to priority
A claim may be partly priority and partly	Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$
nonpriority. For example, in some categories, the law limits the amount entitled to priority.	Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$
endued to priority.	Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$
	Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$
	Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$
	Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.	\$
	* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after	the date of adjustment.

Proof of Claim page 2

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4						
13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?	by the Deb which the g	tor within 20 days before t goods have been sold to th	m arising from the value of any good he date of commencement of the ab ne Debtor in the ordinary course of s ation supporting such claim.	ove case, in	\$	50.00
14. Is all or part of the claim being asserted as an administrative expense claim?	the estates	pursuant to 503(b), other	m for costs and expenses of adminis than section 503(b)(9), or 507(a)(2). n. If yes, please indicate when this c	Attach		
	84	On or prior to June 27	⁷ , 2023:		\$	
		After June 27, 2023:				*
	a.*	The second second one of	Expense Claim Amount:			
Part 3: Sign Below						
The person completing this proof of claim must sign and date it. FRBP 9011(b). If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is. A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.	I am the tru I am a guar I understand the amount of the co I have examined and correct. I declare under	editor. editor's attorney or authorize ustee, or the debtor, or their rantor, surety, endorser, or o at an authorized signature or laim, the creditor gave the de	authorized agent. Bankruptcy Rule 300 other codebtor. Bankruptcy Rule 3005. In this <i>Proof of Claim</i> serves as an acknebtor credit for any payments received of of Claim and have a reasonable belief regoing is true and correct.	owledgment t toward the de	ebt.	41044110 10-1 - 33-346-54-74
	Name	ENGLISHED TO THE PROPERTY OF THE PARTY OF TH	Middle pome	Lastnama		
		First name	Middle name	Last name		
	Title	(I				
	Company	Identify the corporate service	er as the company if the authorized agent is a	servicer.		
	Address	92				
		Number Street				
		City	State	ZIP Code		
	221 SP 19110	Sity Sity		Zii Code		
	Contact phone		Email			

Proof of Claim page 3

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Additional Noticing Addresses (if provided):

Additional Address 1
Name:
Address1:
Address2:
Address3:
Address4:
City:
State:
Postal Code:
Country:
Contact Phone:
Contact Email:
·
Additional Address 2
Name:
Address1:
Address2:
Address3:
Address4:
City:
State:
Postal Code:
Country:
Contact Phone: Contact Email:
Contact Email.
Additional Supporting Documentation Provided
Yes
✓ No
Attachment Filename:

Electronic Proof of Claim Confirmation: 3335-1-LHPPV-304329900

Claim Electronically Submitted on (UTC): 2024-02-06T19:59:45.702Z

Submitted by: Debra Bogard